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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/683,976 | 10/10/2003 | George P. Hansen | TRIA:007CP1 | 2973 |
| 7590 | 09/29/2005 | | EXAMINER | |
| O'KEEFE, EGAN & PETERMAN, LLP Building C, Suite 200 1101 Capital of Texas Highway South Austin, TX 78746 | | | SELLERS, ROBERT E | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1712 | |

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/683,976

Applicant(s)

HANSEN ET AL.

Examiner

Robert Sellers

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 115-127 and 173-190 is/are pending in the application.
- 4a) Of the above claim(s) 175-190 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 115-127, 173 and 174 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Claims 175-190 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on June 1, 2005.

The text of section 103(a) of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 115-127 and 173 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. Patent No. 4,760,103 in view of (Eadara Patent No. 5,198,065 or Japanese Patent No. 6-145630) and (O'Brill Patent No. 4,172,063 or Chinese Patent No. 1,057,849).

Claim 173 was inadvertently omitted from the rejection and is included herein. The rejection is maintained for the reasons of record set forth in the non-Final rejection mailed July 21, 2005. The arguments filed September 16, 2005 have been considered but are unpersuasive.

1. The epoxy adhesive Eadara and the Japanese patent is analogous art to the nonskid coating of Kraft et al. because Kraft et al. desires the nonskid coating to "maintain their adhesion to primed steel after severe impacts (col. 1, lines 37-38)." Thus, Kraft et al., Eadara and the Japanese patent are directed to epoxy resin compositions with aluminum oxide requiring adhesiveness.

2. The objective of formulating an impact resistant coating in Kraft et al. does not preclude the efficacy of imparting flexibility via the incorporation of the epoxy-terminated polysulfide flexibilizer of Eadara. The flexibility would enhance the resistance to cracking and/or tearing of the coating of Kraft et al. The advantages of providing flexibility from an epoxide-containing toughening agent is acknowledged in the specification on page 13, lines 3-4 and page 14, lines 10-11.

3. The teachings of a reference are not confined merely to named or exemplified species. Kraft et al. (col. 1, line 51) discloses fiber fillers in general which embrace the glass fibers of O'Brill and the Chinese patent. The presence of a thickener in the formulations of Kraft et al. does not compromise the motivation to incorporate a particular fiber filler such as the glass fibers of O'Brill and the Chinese patent in order to impart tensile strength, cracking and peeling resistance, impact resistance and shrinkage prevention (O'Brill, col. 2, lines 36-46 and col. 3, lines 21-25).

4. O'Brill is drawn to a coating on a cement substrate which is analogous to the coating of Kraft et al. wherein the sole different is the type of substrate to be coated. The composition of the Chinese patent is also utilized as a coating which is analogous to the coating of Kraft et al. regardless of the ultimate preferential property. The Chinese patent supplement the teachings of O'Brill in establishing the conventional expedient in the epoxy resin coating art of combining glass fibers with an epoxy resin, a rubber and a polyamide as set forth in Kraft et al.

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Claims 119 and 174 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 115-118, 120-127 and 173 hereinabove, and further in view of Stahovic et al. Patent No. 5,990,234.

Claim 174 was inadvertently omitted from the rejection and is included herein. The rejection is maintained for the reasons of record set forth in the non-Final rejection wherein Stahovic confirms the obviousness of adding a calculated amount of 4.4% by weight of an ultraviolet light absorber (col. 2, lines 35-42 such as the elected species of bis(1,2,21,6,6-pentamethyl-4-piperidiny)sebacate (col. 4, lines 21-22).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Sellers whose telephone number is (571) 272-1093. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
rs 9/27/2005


ROBERT E.L. SELLERS
PRIMARY EXAMINER